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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,911	03/09/2004	Monika Fleischmann	1020-010US01	3361

28863 7590 04/12/2007
SHUMAKER & SIEFFERT, P. A.
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WOODBURY, MN 55125

EXAMINER

TRAN, HENRY N

ART UNIT	PAPER NUMBER
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2629

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/797,911

Applicant(s)

FLEISCHMANN ET AL.

Examiner

Henry N. Tran

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2-5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/26/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114.

Applicant's submission filed on 3/26/07 has been entered.

2. The indicated allowability of claims 1-5 recited in the Office action mailed 12/27/06 is withdrawn in view of the newly discovered references to U.S. Patent No. 5,914,701 issued to Gersheneld et al. and U.S. Patent No. 6,777,922 issued to Tajima et al. Rejections based on the newly cited references follow.

Information Disclosure Statement

3. The examiner has considered the documents listed in form PTO-1449 submitted with the Information Disclosure Statement (IDS) received 3/26/07 (see the attached form PTO-1449).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gersheneld et al. (U.S. Patent No. 5,914,701, hereinafter referred to as “Gersheneld”) in view of Tajima et al. (U.S. Patent No. 6,777,922 hereinafter referred to as “Tajima”).

Gersheneld teaches a gesture-based input device for a user interface of a computer (100) comprising: an array (102) of receivers (22), each including a pair of electrodes (24, 26), mounted on a display screen (104) for capturing a quasi-electrostatic field surrounding a user (10) in order for the user interface to provide different option or tasks to be selected by the user; a platform (108) for supporting the user foot (110); a quasi-electrostatic field generator source (14) connected to the platform; and a circuitry connected to the electrodes for determining a position of a part of the user (a user hand 112) being closest to electrodes, see Figs. 1-3 and 7, col. 4, line 38 to col. 6, line 4; and col. 7, lines 6-30. However, Gersheneld does not teach: (i) two pair of electrodes scalable for any screen size, and (ii) the position of the part of the user in each dimension of the electrodes is determined based on a relation of four voltage signals of the circuitry, respectively, each voltage signal indicating a distance between the part of the user and the respective electrode, whereby the position within the electrode closest to the part of the user is determined without any calibration of a sensor system. Tajima teaches a gesture-based input device for a user interface of a computer (373) comprising: (i) an array of sensor system comprising two pair of electrodes (411X1, 411X2, 411Y1 and 411Y2) scalable for a display screen (371), and (ii) a circuitry comprising specific circuits (412-420) connected the electrodes and the computer for determined the position of the finger of a user (1) in each dimension of the electrodes of the input device (2) based on a relation of four voltage signals (“inducing voltage”) of the circuitry, respectively, each voltage signal indicating a distance between the user finger

and the respective electrode, whereby the position within the electrode closest to the part of the user is determined without any calibration of a sensor system, see Figs. 1, 3, 28 and 30; col. 5, lines 23-37; col. 18, lines 26-44; and col. 19, line 59 to col. 21, line 29. It would have been obvious to one of ordinary skill in the art at the time the invention was made to the two pairs of electrodes and the induced voltages as taught by Tajima for the Gersheneld sensor electrodes for producing the claimed invention because this would provide an improved gesture-based input device that makes use of a simple electrodes arrangement for obtaining induced voltages for effectively performing a computer-user interface. By this rationale, claim 1 is rejected.

Allowable Subject Matter

6. Claims 2-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

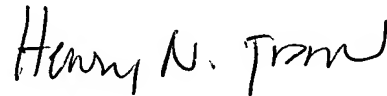
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They are U.S. Patents Nos.: 7,170,489 and 6,771,161, which teach gesture-based input systems.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry N. Tran whose telephone number is 571-272-7760. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin H. Shalwala can be reached on 571-272-7681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Henry N Tran
Primary Examiner
Art Unit 2629

HT
4/6/07